

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|------------------------------|---|---------------------------|
| DATATRAK INTERNATIONAL, INC. |) | CASE NO. 1:11-cv-00458 |
| |) | |
| Plaintiff, |) | JUDGE PATRICIA A. GAUGHAN |
| |) | |
| v. |) | |
| |) | |
| MEDIDATA SOLUTIONS, INC. |) | |
| |) | |
| Defendant. |) | |

**SUPPLEMENT TO DATATRAK’S MEMORANDUM IN SUPPORT OF MOTION FOR
RECONSIDERATION AS TO LIMITED THIRD PARTY DISCOVERY**

Plaintiff, DATATRAK International, Inc., respectfully submits the instant Supplement to DATATRAK’s Memorandum in Support of Motion for Reconsideration as to Limited Third Party Discovery (“Memorandum”) (Doc. 37-2), filed on December 30, 2011, in order to correct an inadvertent misstatement in footnote 3 of the Memorandum.

Footnote 3 stated that “the Patent Office ha[d] yet to determine that reexamination of the patent-in-suit is warranted in the first place.” In fact (as the undersigned subsequently learned), the Patent Office had apparently issued, in hard copy, an Office Action in Ex Parte Reexamination and sent it to Plaintiff’s reexamination counsel, via U.S. Mail (only), on December 16, 2011. The Office Action (which was not sent electronically, like most Patent Office communications) reached the offices of Plaintiff’s counsel on December 22, 2011, the very day such offices closed in connection with the firm’s move to new offices. Because of the office closure, firm move and ensuing holidays, neither Plaintiff’s reexamination counsel nor litigation counsel (who are not participants in the reexamination proceedings) were aware, until yesterday, January 4, 2012, that the Patent Office had determined to proceed with reexamination.

Plaintiff's counsel regrets the inadvertent misstatement in footnote 3 of the Memorandum. Notwithstanding the foregoing, Plaintiff respectfully notes that the Office Action does not negate the compelling reasons for permitting limited third party discovery to proceed. Indeed, the risk of loss of relevant third party evidence during the period of the stay is entirely independent of and unmitigated by the Office Action.

Respectfully submitted,

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DATED: January 5, 2012

CERTIFICATE OF SERVICE

I certify that the Foregoing *Supplement To DATATRAK's Memorandum In Support Of Motion For Reconsideration As To Limited Third Party Discovery* was filed electronically on January 5, 2012. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Daniel J. McMullen
One of the Attorneys for Plaintiff,
DATATRAK International, Inc.